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Human Rights Committee

Fifth periodic report submitted by the Sudan under article 40 of the Covenant, due in 2017*

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Background

1. The Sudan ratified the International Covenant on Civil and Political Rights in 1986 and strives to fulfil its commitments under that instrument. It recognizes the work and efforts of the Human Rights Committee and is anxious to cooperate with the Committee and to engage in a substantive and constructive dialogue for the promotion of human rights.

2. The Sudan submitted its fourth periodic report under article 40 of the Covenant, which was discussed before the Human Rights Committee at its 3070th and 3071st meetings on 8 and 9 July 2014. In that report the Government of the Sudan sought to demonstrate the steps it was taking to improve the human rights situation, in particular with regard to the civil and political rights defined under the Covenant: boosting national efforts to promote and protect human rights on the ground, evaluating progress and challenges and exchanging best practices.

3. The methodology used to draft the fifth periodic report, which is hereby being submitted and covers the period 2012-2016, may be summarized as follows:

(a) Information covered in previous reports has not been repeated, unless necessary to dispel ambiguity or explain new developments;

(b) Fundamental rights have been considered in the same order as that in which they appear in the Covenant, and the articles have been referred to by name;

(c) Short paragraphs have been used and each new paragraph has been numbered for ease of reference.

4. The Government of the Sudan affirms its sincere desire to defer to and cooperate with the Human Rights Committee, which is a mechanism for the promotion and protection of civil and political rights that is guided by the principles of universality, impartiality, objectivity, neutrality, non-selectivity and non-politicization. The Committee also promotes and protects human rights in general, on the basis of cooperation and genuine and constructive dialogue with Member States. The Government is mindful of the fact that, as recognized in the Vienna Declaration and Programme of Action, all rights are "indivisible, interdependent and interrelated", and that the Committee's modus operandi is a strategic choice aimed at protecting human rights while rejecting any form of exploitation for political, ideological or economic ends.

5. The present report clarifies the efforts made and the progress achieved by the State in the promotion and protection of human rights. On the legislative front a number of laws have been introduced safeguarding the exercise of human rights while mechanisms exist to ensure that they are duly promoted and protected at the levels of the legislature, the executive and the judiciary. The Sudan is facing a host of challenges and difficulties but it maintains the will to continue to advance and develop human rights, and to cooperate with the relevant international, regional and national bodies.

Part I

General legal framework

General framework

6. The Sudan is one of the biggest countries in Africa with a surface area of 881,000 square kilometres. It has borders with seven countries: Egypt and Libya to the north; South Sudan to the south; Chad and the Central African Republic to the west; and Ethiopia and Eritrea to the east. It is separated from the Kingdom of Saudi Arabia by the Red Sea.

7. The consultative method was adopted in the drafting of the present report, which was drawn up by a committee composed of the Minister of Justice and the President of the Advisory Council on Human Rights. The consultative process involved a number of meetings and workshops as well as a panel discussion which was attended by 40

representatives of ministries and departments who provided information on their own human rights policies, and by civil society organizations, academics, legal experts and others. The draft was then submitted for further discussion and proposals and amendments were incorporated into the text.

8. A number of laws dealing with human rights and the exercise of those rights have been amended. They include:

- The Anti-Human Trafficking Act of 2014;
- The Freedom of Information Act of 2015;
- The Asylum Act of 2014;
- The Elections Act of 2014;
- The Criminal Code (amended) of 2015.

Human rights treaties ratified by the Sudan during the reporting period

9. In order to strengthen its human rights legislative structure, in 2013 the State ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Part II

Replies to recommendations

Paragraph 6

Constitutional legal framework

10. The State party should take all the necessary measures to ensure transparency in all stages of the constitutional review process and to guarantee the effective and meaningful participation of all relevant actors, including representatives of opposition parties and the full range of civil society. The State party should ensure that the text of the new Constitution is fully consistent with the Covenant.

11. In this connection, the authorities chose to make the ongoing constitutional review process as broad and comprehensive as possible. The President of the Republic called an assembly on 6 April 2014, which was attended by 203 people belonging to 83 parties and movements representing different groups and sectors within Sudanese civil and political society. The assembly, with the full consensus of all participants, laid the foundations for national dialogue. That outcome, which was the expression of a strong will to inaugurate dialogue in society, was followed by the creation of a high-level coordinating committee for national dialogue, which subsequently became known as the 7+7 Mechanism: seven persons representing opposition parties and seven representing parties backing the Government. All sides agreed that the Mechanism should be chaired by the President of the Republic as a sign that a new phase had begun in Sudanese political life, one of agreement and compromise on the basis of the principle that the priority was inter-Sudanese dialogue in which to discuss and propose solutions for a new social and political contract that would be a basis for lasting peace.

12. On 9 August 2014, a road map for national dialogue was finalized. It comprised 15 items the most important of which defined: the purposes and goals of the dialogue and the process of constitutional, political and social advancement on the basis of agreement between the Sudanese people; the climate and measures necessary to build confidence to be followed by the release of all political prisoners; guarantees regarding political freedoms and freedom of expression and publication; the basic principles of dialogue including full participation and transparency as well as commitment to and implementation of the outcomes of the dialogue. The road map also included an organizational framework for the dialogue process as well as mechanisms to implement, monitor and safeguard the process.

13. Comprehensive national dialogue began on 10 October 2015 among 79 parties and political organizations as well as 31 armed groups. Also present as fully fledged participants were civil society organizations in addition to other social entities from academia, women's groups, young people's groups and others. On 24 December 2015, the National Dialogue Governance Committee unanimously agreed to the draft of a new Constitution enshrining the independence of the judiciary, the rule of law, the separation of powers and good governance.

14. On 10 October 2016, the National Dialogue Conference took place at which the outcomes of the national dialogue — amounting to 1,080 recommendations in all — were brought together into a single document. That document constituted the social contract on the basis of which to draft the country's permanent constitution, and the foundation upon which to build a national strategy for the advancement of the Sudan. In December 2016 certain amendments were made to the Interim Constitution in order to accommodate the outcomes of the national dialogue. They included the introduction of transitional provisions affecting the executive and the legislature, and the formation of a Government of national accord to manage power until general elections can be held in 2020, with greater participation and strengthened national consensus

Paragraph 7

Interpretation and application of domestic law

The State party should take appropriate measures to ensure that its domestic law, including the rules concerning personal status, family law and penal law, are not interpreted or applied in ways that are incompatible with its obligations under the Covenant. It should also raise awareness about the Covenant and its applicability in domestic law among judges and judicial officers.

15. According to article 27 (3) of the 2005 Interim Constitution of the Sudan, international human rights treaties the country has ratified are an integral part of the "Bill of Rights", which is itself part of the Interim Constitution. The Government has adopted a State reform programme, which focuses on justice and envisages a veritable legislative revolution to amend various pieces of national legislation with a view to bringing them into line with the Constitution and the obligations of the Sudan under international treaties. This matter has been entrusted to committees of experts, judges and counsellors who are directing their attention at a number of laws, chief among them the Criminal Code, the Code of Criminal Procedure, the Evidentiary Act and the Code of Civil Procedure. The authorities are also reviewing 63 other laws including the 2009 Press and Publications Act, the 2010 National Security Act and others.

16. There are no loopholes in the judicial system of the Sudan to prevent the application of the provisions of international treaties that have been ratified by the State. Indeed, article 48 of the 2005 Interim Constitution states: "The Bill of Rights shall be upheld, protected and applied by the Constitutional Court and other competent courts; the Human Rights Commission shall monitor its application in the State pursuant to article 142 of the present Constitution." The courts have constantly applied this provision, the last relevant judicial precedent being a judgment issued by the National Supreme Court in the case of *Adel Berhi Ramadan v. the Ministry of the Interior*.[1] In that case the Court ruled to admit the appeal, overturn the judgment of the court of first instance and order the Ministry of the Interior to issue a Sudanese nationality document to the appellant on the grounds that his mother was born Sudanese and irrespective of the nationality of the father, who was a citizen of South Sudan. In fact, the authorities had refused to grant the appellant Sudanese nationality on the grounds that the Nationality Act did not include provision for granting nationality through the maternal line alone.[2] In its reasoning the National Supreme Court stated that, according to article 7 (2) of the Constitution, every person born to a Sudanese mother or father has an inalienable right to enjoy Sudanese nationality and citizenship and, therefore, that right

[1] Administrative appeals No. 233 of 2016.

[2] Current legislative reforms, many of which have already been completed, include amendments to the 1994 Nationality Act to bring it into line with the Constitution.

cannot be denied either through law or through an administrative decision. In reaching that conclusion, the Court was guided by a ruling issued by the Constitutional Court in a similar case.[3]

17. During the reporting period, pursuant to Decree No. 140 of 2015 of the Council of Ministers, the Government adopted a State reform programme that focuses on justice and envisages a legislative overhaul to amend various pieces of national legislation with a view to bringing them into line with the Constitution and the obligations of the Sudan under international treaties. The aim of the initiative is to protect and promote human rights. In November 2015, the Minister of Justice issued decrees for the formation of legislative review committees.

18. The review and reform process covers more than 60 laws including the Press Act, the National Security Act and the Personal Status Code. The Access to Information Act was issued in 2015 and, in 2016, the Act establishing the National Transparency, Integrity and Anti-Corruption Commission. Amendments have been made to the Criminal Code including the introduction of a distinction between rape and adultery, and an additional article concerning sexual harassment; moreover, the definition of abuse of office has been broadened and the penalty augmented. A bill has been drafted that criminalizes and punishes genital mutilation, abolishes the offence of apostasy and the penalty of stoning, restricts the use of whipping to three serious offences and amends article 152 of the Code regarding indecent attire. Another draft bill seeks to ban and criminalize discrimination and hatred on the grounds of religion or race. These bills are currently passing through the stages of the legislative process.

19. The Criminal Code was amended in 2015 with the addition of the offence of sexual harassment and the separation of the offence of rape from that of adultery in article 149, thereby removing all ambiguity and ensuring just and fair treatment for victims. Two paragraphs were added to article 88: paragraph (a) which makes it a crime for public officials to abuse their office or authority, and paragraph (b) which defines a public official as anyone who works in a legislative, executive, administrative or judicial capacity, whether appointed or elected. The Elections Act was amended in 2014 to increase the proportion of women from 25 per cent to 30 per cent and to improve geographical and proportional representation in order to broaden participation.

20. The State lays great emphasis on the education and training of judges, prosecutors and law enforcement officials, to which end the Judicial and Legal Sciences Institute was established under Presidential Decree No. 489 of 2014. The prerogatives and professional competencies of the Institute were subsequently expanded under Decree No. 35 of 2015 and human rights make up an important part of the subjects studied there. During the first two years of its existence the Institute organized training courses in a number of different fields including investigation, criminal justice, juvenile justice, governance and anti-money-laundering techniques. The courses were attended by 369 judges, 137 public prosecutors and counsellors of the Ministry of Justice, 78 lawyers, 91 police officers, 55 researchers and 32 persons from other sectors including civil society organizations. A human rights department has been created within the Ministry of the Interior and its tasks include training police officers and other law enforcement agencies about human rights values and principles.

Paragraph 8

Allegations of human rights abuses in the context of armed conflicts

Ensure that State forces and groups under its control do not perpetrate human rights violations under any circumstances.

21. The justice and law enforcement authorities and the Prosecutor General of the Special Court for Darfur collaborate in investigations and the referral of accused persons for trial. The Office of the Prosecutor General of the Special Court for Darfur has been expanded with the opening of branch offices in each of the five provinces of Darfur region.

[3] Constitutional case No. 153 of 2015.

The number of prosecutors was increased in 2014-2015 and there are now 100, of whom 12 in the main Office of the Prosecutor General for Darfur.

22. Paragraph 8 of the concluding observations contains random accusations based on reports from unknown sources which do not precisely specify the place or time the alleged crimes occurred, or the names of the perpetrators, if they exist at all. This casts doubt on the trustworthiness of the information. Moreover, the paragraph refers to Northern Kordofan as an area affected by conflict and states that human rights violations have occurred there. This is untrue. The province of Northern Kordofan has not been affected by the conflict at all and no reports of that nature have come from there.

23. The allegations in the same paragraph about serious human rights violations and the denial of humanitarian assistance contradict the findings of the United Nations country team for the Sudan. Those findings were published on 10 July 2017 and testify to a palpable improvement in the delivery of humanitarian aid thanks to cooperation between the Government of the Sudan and humanitarian organizations.

24. The security situation in Darfur region has stabilized, just as it has in the provinces of Southern Kordofan and Blue Nile, in what may be considered as a complete cessation of armed hostilities. This is largely down to the efforts made by the Government, including its call for comprehensive national dialogue, its application of the Doha Document for Peace in Darfur and its unilateral declaration of a ceasefire.

25. The judicial mechanisms of the armed forces have conducted a number of trials and carried out a number of investigations into reports of offences perpetrated by soldiers in the field. This includes offences under chapter III, part II of the 2009 Armed Forces Act; i.e., war crimes.

26. The armed forces have shown great willingness to collaborate with law enforcement agencies, particularly with the Prosecutor General of the Special Court for Darfur in regard to allegations against military personnel concerning offences committed in Darfur.

27. In addition, the armed forces have signed memorandums of understanding with the International Committee of the Red Cross (ICRC) to disseminate and raise awareness about international humanitarian law and to provide relevant training to officers and enlisted men. That project is already up and running. As regards the delivery of humanitarian assistance, the armed forces remain bound by the agreement of the Government of the Sudan to the American proposal to deliver humanitarian aid to regions under the control of the Sudan People's Liberation Movement-North. In other regions, humanitarian assistance finds its way in automatically and has even managed to reach the area of Golo in Jebel Marra without hindrance on the part of State security agencies, including the armed forces, according to the United Nations country team.

Paragraph 9

Internally displaced persons

The State party should take all measures at its disposal to prevent and avoid displacement of persons, including by training its security forces on how to avoid tactics that lead to displacement. In light of the Committee's previous concluding observations (see CCPR/C/SDN/CO/3, para. 23), the State party should also ensure that adequate and effective protection is provided to internally displaced persons in camp and non-camp situations.

28. The Sudan has adopted a resettlement strategy for displaced persons, either in newly-built villages or in building schemes within existing camps. The aim is to provide better living conditions and to make those persons better able to exercise their human right to adequate housing. In this regard, it is important to take account of the financial constraints the Sudan faces as one of the world's least developed countries, and the impact of the unilateral coercive measures and sanctions which have been imposed on the nation. In order to address all the challenges associated with displacement, the Humanitarian Aid Commission has also developed a national policy for internally displaced persons.

29. A key priority for the Government is to encourage voluntary repatriation, to which end it has built voluntary return villages. As a first step, 85 such villages have been constructed in the 5 provinces of Darfur. Another important priority is to meet fundamental needs and provide basic services such as security, health care, clean water and education, all of which are seen as vital if internally displaced persons are to be encouraged to settle, resume their activities in agriculture and animal husbandry, and contribute positively to development in their respective regions. The Government has been pursuing a successful policy at the federal and local levels involving seasonal return to areas of origin, the aim being to encourage agricultural activities during the rainy season.

30. The overall number of displaced persons in the Sudan is 1,976,888 distributed in about 45 camps and residential areas. Voluntary repatriation programmes led to the return of 209,000 internally displaced persons in Darfur in 2015-2016.

31. The Government has appointed the members of a mechanism to find sustainable solutions. They will work with the mechanism created by the United Nations to develop and implement a strategy for sustainable solutions, gather information for the team from the Joint Internally Displaced Person Profiling Service (JIPS) and plan pilot projects such as an integration project in the Abou Shouk camp.

Paragraph 10

Non-discrimination and equality of rights between men and women

The State party should (a) Speed up the review of its domestic laws, including those governing the family and personal status and those concerning public indecency, in order to bring them into full conformity with articles 3, 23 and 26 of the Covenant; (b) Intensify its efforts to raise awareness among the public and train State officials, in particular judges, prosecutors and the police, about women's rights.

32. The State seeks to protect and safeguard women, and grants them rights equal to those of men in many areas of life, without discrimination, particularly as regards civil and political freedoms and rights. Women are able to enjoy all their fundamental rights, such as: the right to life and freedom; the right to nationality; the right of movement; the right to work; the right of expression and of worship; the right to join political, social and union groups; the right to own property; the right to communicate; the right to privacy; the right to a fair trial; the right to take legal action; the right to education; and the right to health care. According to article 32 of the Interim Constitution: "The State shall guarantee equality among men and women in their enjoyment of all civil, political, social, cultural and economic rights, including the right to equal pay for equal work and other related benefits."

33. During the reporting period, the treatment of women in 26 pieces of legislation was reviewed. Problems were identified and recommendations made to amend 18 of them.

34. Women represent more than 40 per cent of the public service workforce and occupy a number of high-ranking political posts in the Government. Participation of women in the national parliament and in provincial parliaments is not less than 30 per cent and they hold 9 ministerial portfolios at national level and 34 ministerial portfolios at provincial level.

Paragraph 11

The State party should consider adopting comprehensive anti-discrimination legislation which includes provisions for protection against discrimination on grounds such as age, sexual orientation, gender identity and health status (in particular people living with HIV/AIDS). It should also prioritize the implementation of programmes to eliminate stereotyping and discrimination and guarantee tolerance and respect for diversity.

35. A bill has been drafted that seeks to outlaw all kinds of discrimination and hatred on the grounds of religion or race. It is currently passing through the stages of the legislative process. Amendments made to the Constitution in 2017 included a change to the title of article 31 from "Equality before the law" to just "Equality". A paragraph has been added to the same article, according to which all people have an equal right to occupy elected posts or posts in public service; likewise, they have equal rights in judicial proceedings and are

equally entitled to transact judicial, legal or general affairs, without discrimination save on the grounds of qualification and competency. As stated in the response to paragraph 7 of the concluding observations, the provisions of the "Bill of Rights" (i.e., articles 27 to 48 of the Constitution) are respected and applied by the courts even before having been enshrined in legislation.

36. On 4 December 2016, the Sudanese Ministry of Health launched a campaign to combat social prejudice against persons living with HIV/AIDS, protect their rights and dignity and hold to account those who prevented them from receiving treatment and medical services. A bill to protect the rights of persons living with HIV/AIDS includes provision for deterrent punishments against individuals who fail to provide them with the services they need. As part of awareness-raising initiatives on the illness, educators have collaborated with health-care authorities to develop curricula addressing HIV/AIDS for use in schools and universities. At a social level, there are a number of community organizations that assist persons living with HIV/AIDS and defend their rights, such as the Friends of HIV/AIDS Sufferers Society.

37. Article 152 of the Criminal Code, which concerns indecent acts, was one of the articles covered in the legislative review carried out in 2015 by a committee established for the amendment of the Criminal Code. The work of the committee, which sought to find an acceptable wording for the article, was preceded by a number of workshops on the amendments. It should be noted, moreover, that the article was not drafted specifically for women but is applicable to anyone committing an illicit act, man or woman.

Paragraph 12

Violence against women

The State party should redouble its efforts to prevent and combat all forms of violence against women.

38. As part of its efforts to combat violence against women and children, the authorities have taken a number of measures in terms of legislation and strategic policies. The Criminal Code as amended in 2015 stipulates penalties for offences that fall within the concept of violence against women, such as sexual harassment. It also differentiates between adultery and rape. The Anti-Human Trafficking Act 2014 stipulates harsher penalties for trafficking when the victims are women or children.

39. A national policy to combat violence against women 2016-2031 has been devised and a five-year national plan to combat violence against women 2017-2022 has been adopted. The Unit for Combating Violence against Women and Children follows up on the implementation of the plan by acting as a coordination mechanism between ministries, the provinces, civil society groups and United Nations organizations.

40. As part of attempts to combat violence, operational units have been set up in the provinces to coordinate joint programmes of action among all sectors involved in anti-violence activities (Ministry of Health, the judiciary, Ministry of the Interior, Ministry of Justice, Ministry of Education). The phenomenon of violence is not limited to physical violence or abuse but also covers deprivation of rights; for that reason, the units work with all competent departments to implement comprehensive anti-violence programmes.

41. The Unit for Combating Violence against Women and Children has created 14 subunits at the provincial level, including 4 subunits in 4 of the provinces of Darfur. A network of civil society organizations engaged in combating violence against women has also been set up in order to improve coordination between the State sector and civil society, and it focuses particular attention on the issue of violence against women in Darfur. A number of action plans for the provinces of Darfur have emerged from the national plan to combat violence against women, and these have been discussed with the European Union in Brussels.

42. The Unit has worked with the Ministry of the Interior to increase the number of female police officers involved in protecting civilians in camps, especially women. A course has been developed to train female police officers in investigation techniques and in

the principles of international humanitarian law and human rights. Training and capacity-building courses focusing on international, regional and national law have been run for persons working in the judiciary and law enforcement agencies. Female police officers have received training in how to conduct criminal investigations in cases involving violence against women, and a guide on medical treatment in cases of rape has been developed. The report of the Secretary-General of the United Nations on the prevention of violence against women and girls (E/CN/6/2013/4) mentioned the Sudan as one of ten States to have reported on the establishment of coordination mechanisms, including task forces, dedicated units, working and interministerial groups and observatories.

43. Domestic violence is criminalized and punished under article 142 (minor violence) and article 139 (serious violence) of the Criminal Code. Furthermore, under the 1991 Personal Status Code, women have the right to divorce on grounds of harm suffered. Special criminal courts and prosecutors' offices have been created to deal with family matters.

44. There are ongoing awareness-raising programmes on the negative effects of violence against women. One of these is the "Love and Compassion" campaign, which is aimed at certain specific groups such as religious figures, the media and young people, and seeks to disseminate cultural awareness throughout the community and prevent violence at both federal and provincial level.

45. The right to take legal action is enshrined in the Constitution and there is no impunity. Female police officers have received training in how to conduct criminal investigations in cases of rape, as a way of encouraging women to come forward and report such offences. Protocols for the clinical treatment of rape cases have been jointly reviewed by the Ministry of Health, the World Health Organization (WHO) and the Unit for Combating Violence against Women and Children. A circular of the Minister of Health has given victims the right to receive medical treatment without having to fill in official form No. 8. All these measures facilitate access to justice.

Paragraph 13

Female genital mutilation

46. A bill outlawing female genital mutilation began to be drafted in 2007. The draft was reviewed by a national committee for the review of laws related to women's rights in 2012-2013, and a series of consultative meetings was held between the Ministry of Justice and parliamentarians.

47. In cooperation with the United Nations Children's Fund (UNICEF) the Government has launched the "Salima" campaign, which is a social media initiative designed to prevent female genital mutilation. It focuses on bringing about change in society rather than in the individual, making change socially acceptable and disseminating knowledge and awareness about the harmful effects of female genital mutilation.

48. The 2016 bill amending the Criminal Code included provisions criminalizing female genital mutilation and stipulating a penalty of 3 years' imprisonment for anyone committing that offence.[4] The draft was approved by the Council of Ministers and has been submitted to parliament.

49. The National Council for Child Welfare, in cooperation with the National Council for Strategic Planning, drafted the national strategy 2008-2018 to prevent female genital mutilation in the Sudan. The aim of the strategy is to build capacity in institutions and in civil society, and to develop skills in society as a whole in order to help people abandon this practice. Goals of the strategy include enacting legislation to prohibit and criminalize female genital mutilation, raising awareness in society, constructing local, regional and international partnerships, and mobilizing religious figures to play their part. The implementation of the strategy is proceeding as planned.

[4] Article 141 (a) of the 2016 draft Criminal Code (amended).

Paragraph 14

The death penalty

The State party should consider abolishing the death penalty and acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. If the death penalty is maintained, the State party should ensure that it is maintained only for the most serious crimes within the meaning of article 6, paragraph 2, of the Covenant.

50. The use of the death penalty in the Sudan is reserved for the most serious crimes. The relevant laws do not state that the death penalty is the only possible punishment or that it is obligatory. In fact, they include provision for other possible punishments and leave it to the courts and the judges to determine the issue and to select the appropriate penalty on the basis of the seriousness of the offence, the circumstances of the case and other fundamental elements. It should also be pointed out that the death penalty is among a number of criminal sanctions that are automatically subject to appeal, first before the lower courts then before the higher courts and finally before the Constitutional Court, and it cannot be carried out without the approval of the President of the Republic. Offences attracting the death penalty under Sudanese law include the following:

(a) Premediated murder, unless pardoned by the next of kin or relatives of the victim (article 130 of the 1991 Criminal Code);

(b) Undermining the constitutional system (art. 50);

(c) Espionage against the State (art. 53);

(d) Rape if the victim is a minor or if the offence is committed in the context of an armed infraction, be it robbery or brigandage (article 86 of the 2010 Children's Act and article 186 of the Criminal Code);

(e) Crimes against humanity (article 186 of the Criminal Code);

(f) Genocide (art. 187);

(g) War crimes (art. 188);

(h) War crimes using forbidden means and weapons (art. 192);

(i) Adultery committed by a person who is married; the act must be witnessed by four persons who see the act of intercourse between the man and the woman and separate the couple or the offender must confess and not retract the confession at any time before the penalty is carried out (art. 146);

(j) Inciting a minor, a mentally ill person or an inebriated person to commit suicide, if the suicide actually takes place (art. 134).

51. It should be pointed out that, since the promulgation of the Criminal Code in 1991, the death penalty has been carried out only for the offences mentioned under (a) and (d) above and, even in those cases, it was implemented in no more than 8 per cent of the cases in which the courts handed down a sentence of death. This was due to individual remittals in cases of premeditated murder, modification of the sentence on appeal or the overturning of the judgment by the Constitutional Court.[5]

Paragraph 15

Prohibition of torture and ill-treatment

The Committee notes that legislation makes inadmissible confessions obtained as a result of inducement or coercion but remains concerned that the State party's criminal legislation does not yet provide a legal definition of torture.

[5] For example, judicial statistics from 2015 show that there was a total of 151 cases involving the death penalty. In 33 cases the sentence was remitted, in 44 it was modified, in 11 it was appealed on constitutional grounds, in 55 it was reviewed and in 12 cases it was implemented.

52. The bill amending the 1991 Criminal Code, which was drafted by a legislative review committee and is currently passing through the stages of the legislative process, includes a clear and comprehensive definition of torture. During the twenty-fifth session of the Working Group on the Universal Periodic Review, the Sudan accepted the recommendation to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the authorities are currently taking steps to put that recommendation into effect.

53. Torture has been given a precise definition, which appears in a number of pieces of Sudanese legislation. Article 115 (2) of the 2015 Criminal Code states as follows:

"Anyone vested with public authority who induces, threatens or tortures a witness, suspect or party to a case to provide or withhold any information shall face a term of imprisonment of up to 3 months and/or a fine."

Article 51 (3) of the 2010 National Security Act states as follows:

"Persons who have been arrested, detained or imprisoned shall be treated in a manner that preserves their human dignity and they may not be subjected to any form of physical or mental abuse."

Article 4 (d) of the 1991 Code of Criminal Procedure states as follows:

"The person or property of suspects may not be violated. They may not be compelled to provide evidence against themselves or to swear an oath except in non-hudud cases that relate to private third party rights."

Under article 20 (2) of the Evidentiary Act, evidence extracted under torture is inadmissible in courts. The article, which is binding upon the courts, states: "Rulings in criminal cases are invalid if they arise from any form of inducement or coercion."

54. During the reporting period no complaints of torture were received by any of the various national mechanisms, and no cases were brought before the courts, even though the Sudanese legal system offers a broad range of channels for redress to anyone who has suffered harm as a result of ill-treatment or torture of any kind. For example, anyone may lodge an appeal against a conviction handed down by the courts and request that the judgment be quashed on the grounds that it was based on evidence obtained in an unacceptable or unlawful fashion. That is a very solid basis for an appeal and the person concerned may, via recourse to the competent body, launch a case against the public authorities responsible for the violation under Article 115 (2) of the 2015 Criminal Code, as stated above.

Paragraph 16

Corporal punishment

55. Although provision for the penalty of amputation does exist in the Criminal Code for the hudud offences of theft and brigandage, that punishment has never been applied since the Code was issued in 1991. Alternative penalties are applied in its stead. Article 65 of the 1994 Evidentiary Act states that hudud cannot subsist in the presence of any doubt — which may amount to the smallest uncertainty, however unreasonable — about the evidence or facts of the case. The evidentiary conditions required to carry out this penalty are so stringent that they are almost impossible to fulfil. The draft Criminal Code, which is being prepared by a legislative review committee, also includes a comprehensive revision of the penalty of flogging.

Paragraph 17

Immunities for State agents

The State party should abolish those provisions that grant immunity from criminal prosecution to the police, the armed forces and the national security forces.

56. The immunities granted to law enforcement officials and others are procedural immunities, which are stipulated under the relevant law and are limited to acts they may

commit during the course of their duties. Such procedural immunity does not decriminalize acts that are criminalized by the law or prevent those acts being prosecuted. It merely postpones the launch of criminal proceedings until the immunity is lifted. Members of the security services have a very practical need for such immunity so that they can serenely continue to do their job — which is characterized by a high degree of danger and vulnerability — of defending the country's internal and external security.

57. Immunity for security forces is not a novelty and is widely applied in many different countries. The immunity — which is envisaged under article 52 (3) of the 2010 National Security Act, the 2007 Police Act and the 2009 Armed Forces Act — relates only to official activities and does not apply to any offence committed outside the sphere of those activities. Procedures for lifting immunity when prima facie evidence exists that a member of the security services has committed an offence are very simple and not complex or protracted.

58. Human rights violations that may be committed by law enforcement officials or members of the armed forces during the course of their duties are not covered by immunity. In this respect, the 2009 Armed Forces Act and the 2010 National Security Act are in line with international humanitarian law and the international obligations of the State. Evidence of this is to be found in the dozens of cases that have been opened against members of the armed forces and other law enforcement personnel regarding human rights violations they are alleged to have committed. Many of those cases have been judged by the competent courts or by the system of natural justice. Currently, there are more than 50 criminal cases pending before the Prosecutor General for Darfur and law enforcement officials are being called to account for any violations they may have committed.[6]

Paragraph 18

Arrests and detentions under the National Security Act

The State party should ensure that persons detained by national security officials are brought before a judge within 48 hours. In this respect, the State party should review its national legislation, in particular the 2010 National Security Act, to bring it into line with article 9 of the Covenant. The State party should abolish all secret places of detention and should ensure that persons deprived of liberty enjoy all the legal safeguards contained in article 9 of the Covenant.

59. The 2010 National Security Act has been reviewed by a special committee and is in the process of passing through the stages of the legislative process, as explained above. Article 51 sets forth all the rights and the safeguards in place to protect persons detained under the Act. The Constitutional Court Act, states that the Court has the authority to order that a detained person be brought before it in order to consider the legality of his or her detention.

Paragraph 19

Military courts

The State party should adopt the necessary legal measures to prohibit military courts from exercising jurisdiction over civilians.

60. A 2013 amendment to article 48 of the 2007 Armed Forces Act regarding the powers of military courts states: "Military courts have the authority to rule in cases in which members of the armed forces are alleged to have committed crimes or violations during the course of their duties or by reason of those duties." Thus, all persons who enjoy the status of civilians are exempt from the jurisdiction of the military courts. This represents a powerful initial safeguard.

61. The jurisdiction of the military courts can, exceptionally, extend to anyone accused of the offences under chapter III, part II of the Armed Forces Act (war crimes). The issue

[6] Attached are updated statistics on complaints received and sentences handed down against persons working for national security agencies, the police and the armed forces.

that arises here concerns, perhaps, persons who form armed groups under whatever name to make war against the State, persons who attack military units or camps with arms or any other means of war, persons who bear arms to undermine national security and stability or persons who undertake military or civilian service in any country that is in a state of war with the Sudan. Do such people enjoy civilian status under international humanitarian law and international human rights law? The answer is that they do not, and this is corroborated by the 1949 Geneva Conventions and their additional protocols, which constitute the legal frame of reference for international humanitarian law as applied to armed conflicts.

Paragraph 20

Freedom of religion

The State party should abolish the crime of apostasy, which is incompatible with article 18 of the Covenant. The State party should also eliminate other discriminatory laws and practices that violate freedom of religion.

62. The Sudan is a multicultural and multi-faith country where Muslims constitute the majority of inhabitants and where Christianity and traditional beliefs have a substantial number of followers. This is affirmed in the Constitution, which states that citizenship — not religion, ethnicity or colour — is the basis for rights and duties.

63. Apostasy is a hudud offence under Islamic sharia, which the people of the Sudan are content should be the principal source of domestic legislation. When calling on States parties to respect freedom of belief in accordance with the Universal Declaration of Human Rights, the Human Rights Committee should please avoid showing any disdain for Islam or for the beliefs of the people of Sudan on this matter, and show them a like respect. The Committee should try and understand Islam in its entirety and not extract certain Islamic precepts from their context or judge them on the basis of other religious convictions, or in the light of preconceived ideas.

64. Article 126 of the Criminal Code is, in fact, very often misunderstood. It does not punish persons who merely change their religion but those who do so openly thereby inciting conflict and hatred. Since the Code was promulgated in 1991, no definitive convictions have been handed down under that article.

65. The rights of non-Muslims are fully respected under the 2005 Interim Constitution and under domestic legislation, just as they are in practice. The 2005 Interim Constitution fully enshrines the rights and duties of citizens and residents of the Sudan, on the basis of the concept of citizenship and irrespective of their community, religion or belief. Throughout history, Sudanese society has been remarkable for its tolerance, peaceful coexistence and respect for diversity.

Paragraphs 21 and 22

Freedom of expression, assembly and association

The State party should adopt the necessary measures to guarantee the full enjoyment of the right to freedom of opinion and expression in all its forms in accordance with article 19 of the Covenant. In this respect, it should also ensure that its legislation, including the 2009 Press and Publications Act, is in full conformity with article 19 of the Covenant. The State party should also ensure that its officials avoid any unnecessary or disproportionate interference with the freedom of expression of the media and should protect journalists against any form of intimidation or harassment.

66. The reply to this observation is given below during the explanation of the exercise of civil and political rights as set forth in the Covenant: regarding freedom of expression — article 19 of the Covenant and paragraphs 105 and 106 of the present report; regarding freedom of assembly — article 21 of the Covenant and paragraph 108 of the present report; and regarding freedom of association — article 22 of the Covenant and paragraphs 109 to 111 of the present report.

Paragraph 23

Non-refoulement and security of refugees

67. A tripartite agreement has been signed between the Government of the Sudan, Chad and the Office of the United Nations High Commissioner for Refugees (UNHCR) regarding the voluntary return of Sudanese refugees from Chad and of Chadian refugees from the Sudan. The agreement helps to ensure that the returning refugees will be able to enjoy the protection of their respective Governments.

68. The total number of refugees who returned from Chad in 2016 was 180,387.

69. The Commissioner for Refugees has set up asylum seeker reception centres and refugee camps in Sudanese provinces. All the services there are operated under the supervision of the camp administrators, including refugee protection departments that provide all the assistance envisaged under the Asylum Act of 2014, in coordination with competent government departments.

70. Police posts and offices belonging to other security agencies have been set up inside the camps to provide protection and maintain security. Police officers also guard the houses allocated to asylum seekers, particularly with the emergence of the phenomenon of human trafficking and the abduction of asylum seekers from border areas. The camp administrators and the security services cooperate fully to ensure that refugees and asylum seekers are duly protected.

Paragraph 24

Child soldiers

The State party should redouble its efforts to detect and eradicate the recruitment and use of child soldiers as well as to ensure their prompt disarmament, demobilization and reintegration. It should also ensure that alleged perpetrators are brought to justice and, if convicted, adequately sanctioned.

71. Article 43 of the 2010 Children's Act prohibits the recruitment and employment of children in the armed forces or in armed groups, or their involvement in hostilities. All laws relating to the military, such as the 2007 Armed Forces Act, the 2008 Police Act and the 2013 National Service Act state that recruits must not be less than 18 years of age.

72. In March 2016, the Government of the Sudan signed a joint action plan to protect children in areas affected by armed conflict. The State began implementing the initiative and 85 per cent of the planned activities have been carried out. The plan was extended for a further six months until 27 September 2017.

Paragraph 25

Birth registration

73. The 2011 Civil Registry Act makes the registration of births obligatory and sets forth the procedures to follow for fulfilling that obligation, which are free of charge. The civil registry system has been extended to all provinces of the Sudan and a national strategy has been put in place to develop civil registry and vital statistics systems.

74. A national campaign to register the births of all children between the ages of 1 day and 15 years was launched in August 2017. It began in the province of Khartoum and is now continuing in other provinces of the Sudan.

Paragraph 26

Dissemination and follow-up

75. The Covenant was published in the Official Gazette of the Republic of the Sudan in the year it was ratified, 1986. The country's fourth periodic report was published in a

booklet and widely distributed. It was also made available on the website of the Advisory Council on Human Rights.[7]

Part III

Civil and political rights as set forth in the Covenant

Article 1
Right of self-determination

76. The State remains committed to the Comprehensive Peace Agreement and since the 2011 referendum, which led to self-determination for South Sudan, the authorities have been careful to abide by its terms. Despite remaining challenges, which revolve around the referendum in the Abyei region and are due to a disagreement on the interpretation of the law, both parties (the Government of the Sudan and the Government of South Sudan) are seeking to resolve their differences through amicable negotiations. Negotiations regarding Southern Kordofan and Blue Nile are continuing under the auspices of high-level mechanisms of the African Union.

Article 2
Respecting and guaranteeing rights

77. In recognition of the rights and freedoms set forth in the Covenant, article 27 (3) of the 2005 Interim Constitution states that all rights and freedoms enshrined in the international human rights conventions, treaties and instruments ratified by the Republic of the Sudan are considered an integral part of the "Bill of Rights", which is itself part of the Constitution.

78. As stated in paragraph 16 above, all the rights and freedoms guaranteed under the Covenant are a binding and integral part of applicable domestic law in the Sudan by virtue of the fact that they are recognized by the Constitution.

Article 3
Equality and non-discrimination

79. In order to empower women and improve their opportunities for participating in the decision-making process, a minimum quota of 30 per cent has been set for women in parliament and this figure is fully respected in the Council of States and in the National Assembly (the country's parliament). The participation of women in the national legislature in 2015 was as follows. There were 131 female members of the National Assembly which has a total number of seats of 450, and there were 16 female members, out of a total of 56, of the Council of States.

80. In 2015-2016, working with development partners, strategies were updated vis-à-vis women in education and employment, including in high-level posts, and with a view to implementing the national policy for the empowerment of women and the national policy for the education of girls. The strategies now comprehend rights such as those to work, education, health etc. The principles of equality and non-discrimination are, in fact, fully embodied in the Constitution and in national- and provincial-level legislation.

Article 4
Emergency situations

81. The imposition of a state of emergency, in all or part of national territory, is regulated by articles 210-212 of the Constitution, which may be activated when a danger arises that threatens the country, be it a war, invasion, blockade or natural disaster. A state of emergency is declared by the President of the Republic who must submit the declaration to the legislature within 15 days of its announcement. If the legislature has not expressed its

[7] www.achr.gov.sd

approval within 30 days of the declaration, the state of emergency is considered to have expired. The legislation that regulates states of emergency is the 1997 Emergency and Safety Act.

82. Under article 211 of the Constitution, laws or measures passed under the state of emergency may not derogate from or restrict the provisions of the Constitution save in the specific way set forth in the article. That is: it is possible, by a special law or order, to suspend part of the "Bill of Rights" contained in the Constitution, although not as regards the right to life, freedom from slavery and torture, non-discrimination, the right to initiate legal proceedings or the right to a fair trial.

83. States of emergency have been imposed in certain parts of the Republic of the Sudan, namely Darfur and the provinces of Southern Kordofan and Blue Nile. Those states of emergency — which were occasioned by the armed conflicts and the security situation in those areas and imposed in conformity with the relevant provisions of the Constitution — were not strictly or harshly applied. For example, the 1997 Emergency and Safety Act includes provision for establishing special emergency courts; however, this was not actually done in those areas and the ordinary courts continued to rule on cases under the emergency laws and orders.

Article 5
Non-violation of the rights set forth in the Covenant

84. The "Bill of Rights" in the 2005 Interim Constitution is the basis upon which the Sudan fulfils its obligations under the Covenant. In May 2017, constitutional amendments to implement the outcomes of the comprehensive national dialogue covered many parts of the "Bill of Rights" in order to promote those rights and facilitate their understanding, interpretation and application. They included rights related to marriage and the family, the right to life, the right to liberty, the right not to be subjected to slavery or forced labour and rights of equality, privacy, belief, worship, expression and media, and assembly and association.[8]

Article 6
Right to life and personal integrity

85. One of the constitutional amendments of 2017 affected article 28 of the Constitution, which now reads as follows: "All human beings have the right to the security of their person, individual integrity and freedom of endeavour in life. No one may be deprived of their inherent right to life save pursuant to a definitive court sentence." This article should be read in conjunction with article 36, which concerns the application of the death penalty.

86. Considerations on the application of the death penalty are given above in the reply to paragraph 14 of the concluding observations.

Article 7
Torture and inhuman treatment

87. Torture and inhuman or degrading treatment has always been a matter of concern for lawmakers in the Sudan, and article 33 of the Constitution stipulates that no one shall be subjected to torture, cruel, inhuman or degrading treatment.

88. One of the principles that must be respected when applying the law is enshrined in article 4 (d) of the 1991 Code of Criminal Procedure, which states: "The person or property of suspects may not be violated. They may not be compelled to provide evidence against themselves or to swear an oath except in non-hudud cases that relate to private third party rights."

89. Article 83 of the 1991 Code of Criminal Procedure emphasizes that persons detained for investigation must be treated in a manner that preserves their dignity and causes them no physical or moral harm. It further states that they must be provided with adequate medical care.

[8] Articles 15, 28, 29, 30, 31, 37, 38, 39 and 40 of the Constitution.

90. Article 89 of the 1991 Criminal Code includes provision to punish any public official who, contravening the law, causes suffering to another person. Under article 90 anyone who misuses their authority to refer persons for trial, or who commits torture, is liable to imprisonment for up to 3 years in addition to a fine and payment of compensation.

91. Article 122 (d) of the Constitution gives anyone whose constitutional rights have been violated the right to have recourse to the Constitutional Court, which can provide restitution or compensation.

92. Under article 20 (2) of the Evidentiary Act, evidence extracted under torture is inadmissible in courts. The article, which is binding upon the courts, states: "Rulings in criminal cases are invalid if they arise from any form of inducement or coercion." Article 115 (2) of the 2015 Criminal Code states as follows: "Anyone vested with public authority who induces, threatens or tortures a witness, suspect or party to a case to provide or withhold any information shall face a term of imprisonment of up to 3 months and/or a fine." Article 51 (3) of the 2010 National Security Act states as follows: "Persons who have been arrested, detained or imprisoned shall be treated in a manner that preserves their human dignity and they may not be subjected to any form of physical or mental abuse."

Article 8
Prohibition of slavery

93. Sudanese legislation — starting with the Constitution — forbids and criminalizes slavery. Article 30 (1) of the Constitution prohibits slavery and all forms of slave trade, as well as forced labour. The Sudan has also ratified several international treaties on the prevention of slavery and racial discrimination. The 1991 Code of Criminal Procedure emphasizes that persons detained for investigation must be treated in a manner that preserves their dignity and causes them no physical or moral harm, and states that they must be provided with adequate medical care.

94. Article 30 of the Constitution has been amended to read as follows: "All forms of slavery and human trafficking are severely prohibited. No one may be imprisoned save according to law or forced to work under duress."[9]

95. The Anti-Human Trafficking Act, which complies with international and regional standards and obligations, was issued in 2014 and the mechanisms necessary for its implementation have been duly created.

Article 9
Right to liberty and security of person

96. Article 29 of the Constitution has been amended to read as follows: "Every individual has the right to freedom and security. No one may be arrested or detained — and thereby denied their right to liberty — save according to provisions laid down in the law."[10]

Article 10
Treatment of persons deprived of liberty

97. As explained in the previous report, the 2005 Interim Constitution of the Sudan enshrines the right of every person to liberty and security, and stipulates that no one may be arrested, detained, deprived of liberty or have their liberty restricted except on such grounds and in accordance with such procedures as are established by law. In keeping with this constitutional maxim, the 1991 Code of Criminal Procedure sets periods of detention to a minimum and includes safeguards for release if there is no evidence to uphold charges, or for release on bail. The Constitution and the Criminal Code also include a number of safeguards relating to liberty.

98. The Constitution and the laws that regulate the rights of prisoners make provision for a series of safeguards, including the following:

[9] Amendments of 2017.
[10] As above.

(a) Prisoners must be treated in accordance with the principle that the purpose of prison is reform, correction and rehabilitation, pursuant to international laws and treaties relating to the treatment of prisoners;

(b) Prisons must be organized in a manner appropriate to the dignity and humanity of prisoners;

(c) Order in prisons must be imposed without any more force than that needed to maintain security;

(d) All health, educational, social and religious channels and materials must be used for the rehabilitation, reform and correction of prisoners;

(e) In the categorization of prison inmates, women are to be segregated from men and juveniles from adults. Prisoners are further categorized by age, term of punishment, type of offence, number of previous convictions and state of health. This helps to identify the most effective means to ensure the rehabilitation and reform of convicted persons.

99. Persons responsible for maintaining national security may be held accountable for any criminal or civil violation they commit, and channels of redress are available. A number of judicial, semi-judicial and executive control mechanisms exist. They include the Constitutional Court, the competent court established under the National Security Act, the competent prosecutor provided for under the 1991 Code of Criminal Procedure, the National Assembly's human rights committee, the Federal Public Grievances and Corrections Board, the Advisory Council on Human Rights and the National Human Rights Commission, as well as civil, administrative and judicial systems. In addition, there are self-monitoring mechanisms such as the office of public information and citizen service, and the permanent non-summary court both of which are part of the National Intelligence and Security Service.

Article 11
Non-imprisonment on the grounds of inability to fulfil a contractual obligation

100. One of the proposed amendments to the 1983 Code of Civil Procedure affects article 225, under which courts may imprison debtors until such time as they have paid their debts or it has been established that they are insolvent. The amendment is based on precedents in which the Constitutional Court established the non-constitutionality of that article, which conflicts with article 11 of the Covenant.[11]

Article 12
Right to freedom of movement

101. As stated in the previous report, all citizens and foreigners enjoy freedom of movement, freedom to choose a place of residence and freedom to leave or enter the country. That freedom may not be restricted save according to law (article 42 of the Constitution).

102. Freedom of movement and of choice of place of residence is granted under article 43 (1) of the Constitution and may not be restricted save for reasons of public health or safety, as regulated by law.

103. During the reporting period no exceptional circumstances arose that required the imposition of restrictions on freedom of movement, including in areas of conflict where a state of emergency is in force.

Article 13
Rights of foreigners

104. Despite its serious economic and social difficulties, the Sudan hosts some of the largest numbers of refugees in the world. Refugees and asylum seekers at the end of 2015 were estimated to stand at 635,631. Thanks to help from international organizations, 22 per cent of them have been registered in camps or in urban areas. However, the remaining 78

[11] For example, Constitutional Court case No. 6 of 2008.

per cent of refugees and asylum seekers are in other urban areas and cities where they are reliant on the public services that the State provides for its own citizens. They have begun to be registered in a programme run by the civil registry authorities which is being implemented in a number of provinces. In full compliance with the bilateral agreements signed between the Sudan and South Sudan, the Sudanese Government has declared that persons from South Sudan are welcome on national territory. An agreement has been signed between the Government of the Sudan and UNHCR to register and count the numbers of persons arriving from South Sudan. This began with the registration of nearly 190,000 persons in the province of Khartoum while committees are at work in White Nile province to register persons arriving there.

Article 14
Right to a fair trial

105. All the provisions of article 14 of the Covenant, which concerns the right to a fair trial, are included in article 34 of the 2005 Interim Constitution of the Sudan and in article 4 of the 1991 Code of Criminal Procedure. In fact, the provisions of the 1983 Code of Civil Procedure and of the 1991 Code of Criminal Procedure are entirely consistent with article 14 of the Covenant, and are binding upon judges and legal institutions. The Constitutional Court has issued dozens of rulings upholding and protecting the principle of a fair trial.

Article 15
Non-retroactivity of criminal laws

106. The principle of the non-retroactive nature of criminal laws is enshrined in article 34 (4) of the Constitution, which states: "No person shall be charged of any act or omission which did not constitute an offence at the time of its commission." Furthermore, according to article 4 (b) of the 1991 Code of Criminal Procedure "there is no crime and no punishment without a pre-existing law".

Article 16
Recognition before the law

107. Article 4 of the 1994 Nationality Act states that a person shall be Sudanese by birth if born in the Sudan, if his or her father was born in the Sudan or if he or she was residing in Sudan at the time the Act came into force and his or her forebears on the father's side have resided in the Sudan since 1 January 1956. When neither the person concerned nor his nor her father was born in the Sudan, if that person fulfils the requirements set forth in article 4 (b) (ii), he or she may submit a request to the Minister of the Interior to be granted Sudanese nationality by birth. A person born to a mother who is Sudanese by birth is entitled to Sudanese nationality by birth, upon request.

108. Under article 5 of the same Act, an abandoned minor of unknown parents shall, until the contrary is proven, be considered as Sudanese.

Article 17
Right to privacy

109. Among the provisions affected by constitutional amendments promulgated in April 2017 was article 37 of the Interim Constitution, which concerns privacy. The title of the article was changed to read "Sanctity of privacy" and the text was amended to make it more inclusive and bring it further into line with international standards. The article now reads: "The privacy of all persons shall be inviolable in every aspect of their lives, in their homes, in their conversations with others and in their oral, visual or written private correspondence, save by order of the courts, by a ruling of the public prosecutor in any circumstances or by a decision of the security services in matters relating to national security."

Article 18
Freedom of belief and of religious observance

110. Article 38 of the Interim Constitution was also included in the 2017 amendments. The phrase "subject to requirements of law", which previously appeared in the article as a

condition for the exercise of the right, was amended to "as regulated by law" while the reference to "public order" was removed altogether.[12]

111. In July 2017, the Sudan hosted a conference on peaceful coexistence among religions, which was attended by delegations from more than 40 countries. The conference examined a number of working papers on the promotion of peace and religious coexistence, and considered relevant experiences in Africa, the Arab world, Europe and America as models to apply from the standpoint of Islam and Christianity. The conference concluded with agreement on 13 points for joint action to make followers of the two religions aware of one another's teachings, especially with regard to instilling sound values and kindling a spirit of coexistence, tolerance and mutual respect.

Article 19
Freedom of opinion and expression

112. There have been recent significant improvements in freedom of expression. In order to create a climate conducive to comprehensive national dialogue, the President of the Republic has issued a number of decrees to promote freedom and encourage the publication of newspapers. Newspapers are no longer censored and there are currently more than 55 dailies in the Sudan of which 26 are political dailies. On 6 December 2015, the Chief Justice issued judicial circular No. 7 of 2015 underlining the urgent need to examine the issue of public freedoms and the measures taken by the authorities concerning press freedom and the banning or restriction of the activities of political parties and civil society organizations. The circular makes it clear that these issues must be given absolute priority over all other matters.

113. The Constitutional Court has issued a number of rulings in support of press freedom including its March 2014 decision to strike down as unconstitutional the decree ordering the closure of the political daily "Al-Tayyar". Also, in September 2013, it issued a ruling admitting a constitutional case brought by a journalist on the "Al-Intibaha" newspaper. The Court struck down a decree which had banned a number of articles the journalist had written and ordered their publication.

Article 20
Prohibition on war propaganda

114. Under articles 62, 64 and 66 of the 1991 Criminal Code it is prohibited to: arouse grievances among members of the regular forces; incite actions that undermine public order; foment hatred among or against different groups on grounds of race, colour or language in such a way as to endanger peace; or disseminate false news with a view to arousing fear or panic among the public in such a way as to endanger peace. The penalties envisaged for anyone who commits such acts are set forth in the same articles.

Article 21
Right of peaceful assembly

115. The 2017 amendments to the Interim Constitution also included a rewording of article 40, which now reads as follows:

> "Freedom of alliance, assembly and association:
>
> (1) Members of society may establish relationships of alliance, assembly and association in organizations, religious groups, political parties, commercial partnerships, cooperatives, and trade and workers unions, as regulated by law;
>
> (2) The bodies set forth under (1) above shall abide by the law in their administration and auditing, and in the management of their affairs. They must not be exploited to make ill-gotten gains and they must be registered by an independent

[12] The new article reads as follows: "Every person shall have the right to freedom of belief and religious observance. No one shall be compelled to embrace a religion in which they do not believe and they shall have the right to express their religion, as regulated by law."

and reliable administrative body with a rotating membership selected by consultation;

(3) The right to peaceful assembly shall be guaranteed; all persons shall have the right to freedom of association with others, including the right to form or join political parties, associations and trade unions or federations, in order to protect their interests;

(4) The creation and registration of political parties, associations and trade unions or federations shall be regulated by law, as required in a democratic society."

Article 22
Right to form trade unions

116. As stated in the previous report, the right to form trade unions, as well as professional, social and economic organizations, is enshrined in the Constitution. Specifically, the right is regulated under article 40 (1) of the Constitution, which was amended in 2017, as explained in paragraph 107 above.

117. The State has adopted a number of measures aimed at allowing civil society organizations to operate freely. It has formulated policies, developed procedures and set up joint action mechanisms through the enactment of laws and the adoption of regulations and agreements applicable to the work of national organizations. They include:

- The 2006 Voluntary and Humanitarian Work Act;
- The 1992 Farming and Livestock Organizations Act;
- The 2010 Trade Unions Act;
- The 2013 regulations governing the registration of organizations and networks;
- Guidelines concerning voluntary and humanitarian work, which were developed in consultation with partners involved in humanitarian work.

118. These measures have had a positive impact on the work of national organizations. There has been an increase in the number of registered voluntary and humanitarian organizations, and effective partnerships have been formed between foreign and national organizations, especially those promoting economic, social and cultural rights.

119. Moreover, trade unions and farming and livestock organizations enjoy full freedom of assembly under the existing legislation as well as freedom to engage in their associative activities. The law, in fact, recognizes the legality of all means they may use to achieve the aims for which they were established including the right to strike, in accordance with the law and the unions' own statutes. Such activities do not entail any civil or criminal liability.

Article 23
The family

120. The State seeks to protect and safeguard women, and grants them rights equal to those of men in many areas of life, without discrimination, particularly with regard to civil and political rights. Those rights take concrete form through the action of the various State institutions.

121. The National Quarter-Century Strategy for 2007-2031 advocates the participation of women in a wholesale revival of society. One of the central elements of the Strategy is, in fact, the empowerment of women. The State's concern in this regard has led it to create various structures as well as seven official national mechanisms to empower women and promote their role in society.

122. The national policy for the empowerment of women — which was adopted by the Council of Ministers in 2007 and has been used as a reference for the Constitution, national laws and regional and international treaties — has been updated for the period 2015-2016, with the help of development partners. Projects included in the policy aim to address issues such as education, health care, the environment, economic empowerment, human rights law, political participation and decision-making, and peace and conflict resolution. A detailed

outline of a national policy to empower women has been proposed, incorporated into the second five-year plan (2012-2016) and sent out to districts and provinces.

123. At the elections of April 2015, participation of women in the national legislature was as follows. There were 131 female members of the National Assembly which has a total number of seats of 450, and there were 16 female members, out of a total of 56, of the Council of States.

124. The constitutional amendments of 2017 included changes to article 15 (1) of the Constitution, which now reads as follows: "The family is the natural and fundamental unit of the society and is entitled to the protection of the law. Upon reaching the legal age as defined in law, a man and a woman may enter a consensual marriage and start a family in accordance with the religion of the parties, or their customs if they do not have a religion. Possessions, bequests and inheritance after death shall be regulated by the law applicable to the parties involved."

Article 24
Children's rights

125. One of the most important advances in the promotion of children's rights was the creation in 2014 of an information management system for monitoring and follow-up on the implementation of strategic polices aimed at children, thanks to a partnership between the Advisory Council for Human Rights and UNICEF, with the cooperation of the National Centre for Information and the Central Statistical Office.

126. Statistics for the year 2013 show that 44,821 children between the ages of 6 and 13 who had dropped out of school re-enrolled in basic education, thanks to the accelerated education programme.

127. The number of primary health-care facilities offering integrated management of childhood illnesses rose from 2,198 to 2,556 in 2013. Those facilities are operational in 113 of the 184 targeted districts.

128. The National Council for Child Welfare has adopted a new methodology for the implementation of the five-year child welfare plan 2012-2016. Beginning in 2014, it has instituted annual plans under which all child welfare activities are integrated into cooperation agreements with donors, which serve the goals of the five-year plan. During 2013, more than 7,182 children who had contact with the law — whether as victims, witnesses or offenders — were able to benefit from the services provided by the police's family and child protection units, which comply with child protection standards.

129. During the course of 2013, child protection working groups were set up under the leadership of the provincial child welfare councils and with members drawn from organizations active in the field of child protection. They are working to address the problems children face in three regions affected by armed conflict.

Article 25
Right to participate in public affairs

130. As explained in the previous report, the Constitution guarantees citizens equal eligibility to public service and to public office, without discrimination.

131. The Elections Act was amended with a view to meeting the needs of the coming phase, which follows on from the President of the Republic's initiative for inclusive national dialogue. All Sudanese without exception were invited to participate in that dialogue, which involved more than 90 political parties and organizations. The law was widely discussed in society, including by civil society organizations, before being approved by parliament. It increases the quota of seats reserved for women in parliament from 25 to 30 per cent.

132. Following the 2014 amendments to the Elections Act, the people of Sudan helped to reinforce the foundations of democracy by participating in the April 2015 elections and the peaceful transfer of power. More than 40 political parties participated, representing all sectors of society.

133. Public service is regulated by a number of different laws and regulations. The National Civil Service Recruitment Commission was set up to oversee the public service recruitment process at the national level for all State institutions. It operates in accordance with the relevant laws and regulations. The most important principles and selection criteria underpinning the Commission's work are as follows: selection for public service has to be on the basis of free completion, with the ability of the candidates being the fundamental standard; all applicants who fulfil the minimum required conditions must be allowed to compete, without discrimination on grounds of religion, gender, educational institution or geographical area; and posts in the public service must be advertised on all available media.

134. The decentralized nature of governance in the country means that there have to be agencies and institutions at the provincial and district levels. In fact, each province has its own civil service law, which is normally modelled on the national law, and each has a civil service recruitment committee which is regulated in the same way as the National Civil Service Recruitment Commission.

Article 26
Equality before the law

135. The principle of equality before the law is enshrined in article 31 of the Constitution. The principle is part of criminal and civil law, it is respected by all judicial bodies and institutions of justice and it is not contradicted in any primary or secondary legislation.

136. The national authorities are progressively taking steps to promote equality before the law, ensure fair trials and facilitate access to justice. For example, in order to ensure the effectiveness of guarantees of a fair trial, as consecrated in international and regional human rights treaties, and to disseminate a human rights culture among the judiciary and law enforcement agencies, the Advisory Council for Human Rights and the United Nations Development Programme (UNDP) organized a number of workshops during the period 2015-2016. Participants included judges, public prosecutors, lawyers and police and security officers with 50 people taking part from each of 5 of the provinces of the Sudan.

Article 27
Rights of minorities

137. According to article 7 (1) of the Interim Constitution, citizenship is the basis for the equality of rights that all Sundanese enjoy. Those rights are set forth in the "Bill of Rights", which is part of the Constitution and prohibits any discrimination in the exercise thereof.

138. In December 2016, the Islamic Fiqh Academy in Khartoum organized an academic seminar on the theme of "the invariable and the changeable in the affairs of a modern State". The event, which was attended by a group of ulema and other interested parties from the Sudan and abroad, had as one of its principle areas of focus the rights of minorities and the rights and duties of citizenship. The seminar concluded with a number of recommendations that minority rights be promoted and protected more effectively, and the authorities have expressed their readiness to put those recommendations into effect.